

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11

MOSDOS CHOFETZ CHAIM INC., Case No. 12-23616 (shl)
: Post-Confirmation
Debtor.
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CONGREGANTS OF MOSDOS CHOFETZ CHAIM INC.
A/K/A KIRYAS RADIN, : Adv. Pro. No. 21-07023
Plaintiff,
- against - :

MOSDOS CHOFETZ CHAIM INC., CHOFETZ CHAIM INC., :
TBG RADIN LLC, SHEM OLAM, LLC, CONGREGATION :
RADIN DEVELOPMENT INC., ARYEH ZAKS, BEATRICE :
WALDMAN ZAKS, MENDEL ZAKS, GITTEL ZAKS :
LAYOSH, ELIYAHU LAYOSH, SAMUEL MARKOWITZ, :
DEBORAH ZAKS HILLMAN, YOM T. HENIG, STEVEN :
GREEN, DANIEL GREEN, ABRAHAM ZAKS and STERLING :
NATIONAL BANK,
Defendants. :
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ORDER DIRECTING CLERK TO ISSUE WRIT OF ASSISTANCE

The Court (Hon. Robert D. Drain) having issued an Order and Judgment on April 14, 2022 [DE-198, the “Second Enforcement Order”] directing Rabbi Mayer Zaks, Sima Zaks Weintraub, Shimon Zaks, Nachum Z. Brody, Yisroel Hochman, Faigy Hochman and anyone acting with or residing with them (collectively, the “Contemnors”) to convey to CRDI possession of, and to entirely vacate, or before June 15, 2022, any housing unit located at 1-50 Kiryas Radin Drive, Spring Valley, New York (the “CRDI Property”); and the Court (Hon. Robert D. Drain) having thereafter, on motion by the Contemnors, having issued an order on June 3, 2022, conditionally staying the Second Enforcement Order through August 1, 2022 [DE-246, the “Limited Duration Conditional Stay Order”] upon, *inter alia*, the payment or bonding of certain amounts to Congregation Radin Development Inc. (“CRDI”) and the Clerk of the Court on the first day of

each month thereafter; and the Contemnors having thereafter moved this Court for an Order extending the Limited Duration Conditional Stay Order (the “Motion to Extend Stay”), and this Court having issued an Order to Show Cause on July 27, 2022 [DE-272] which provided, *inter alia*, that the Limited Duration Conditional Stay Order would be temporarily extended through the hearing on the Motion to Extend Stay on the same terms and conditions as were set forth in the Limited Duration Conditional Stay Order, including the ongoing payment or bonding requirements; and the Court having conducted a hearing on September 9, 2022, and at the conclusion of which having further extended the temporary stay pending a decision by this Court on the Motion to Extend Stay; and the United States District Court for the Southern District of New York [Hon. Philip M. Halpern] having issued a Memorandum Opinion and Order dated September 22, 2022, affirming the Second Enforcement Order in all respects, and the Court having issued a bench decision on October 20, 2022 and an Order on October 24, 2022, denying the Motion to Extend Stay [ECF No. 292], it is

ORDERED that the Clerk of the Court shall, pursuant to Rule 70(d) of the Federal Rules of Civil Procedure (as applicable herein pursuant to Rule 7070 of the Federal Rules of Bankruptcy Procedure), forthwith issue a Writ of Assistance in the form attached hereto (or in any other form deemed appropriate by the Clerk), and it is further

ORDERED that the United States Marshals Service is hereby **ORDERED AND AUTHORIZED** to assist Congregation Radin Development Inc. (“CRDI”) in evicting and removing all occupants of units numbered 1, 2, 3-101, 4-201 and 24 located at Kiryas Radin Drive, Spring Valley, New York (the “Properties”), including, without limitation, Mayer Zaks, Sima Weintraub Zaks, Shimon Zaks, Nochum Z. Brody, Yisroel Hochman, Faige Hochman, and all of

their family members (collectively, the “Residents”), and to deliver exclusive possession of the Properties to CRDI or its designated representatives and agents, and it is further

ORDERED that the United States Marshals Service is hereby **ORDERED AND AUTHORIZED** to take possession of, and remove, any personal property located on the Properties and make the same available to the person or persons occupying the unit of the Properties from which the same was removed. Any person who does not arrange for the delivery of any such personal property from the U.S. Marshals Service to him or her within seven days from the date of seizure of the same shall be deemed to have abandoned his or her interest in the same and the U.S. Marshals Service may dispose of the same in accordance with law, and it is further

ORDERED that the United States Marshals Service is hereby **ORDERED AND AUTHORIZED** to take all necessary steps, using whatever force necessary, to take possession of the Properties, including breaking open and entering the Properties and evicting all persons and entities located within the Properties who claim any possessory rights through the Residents or otherwise, and it is further

ORDERED that the United States Marshals Service is hereby **ORDERED AND AUTHORIZED** to arrest anyone interfering with (i) the execution of this Order or the Writ of Assistance to be issue by the Clerk of the Court, or (ii) its taking possession of the Properties, or (iii) its removal of any occupants from the Properties, and it is further

ORDERED AND DIRECTED that the U.S. Marshals’ Service and its employees shall be held harmless from any and all claims, asserted in any court or tribunal, arising from any acts,

incidents or occurrences in connection with the seizure and possession of the Properties, including any third-party claims, in accordance with this Order and/or the Writ of Assistance to be issued by the Clerk of this Court; and it is further

ORDERED that, notwithstanding anything in this Order, the United States Marshals Service shall not proceed with the actions set forth in this Order to take possession of the Properties until after the expiration of the fourteen day period provided for in the Order Denying Motion to Extend Stay Order [DE-292], which shall expire at the end of the day on November 7, 2022; nothing shall prevent, however, CRDI (or any persons acting in coordination with it or at CRDI's direction) from communicating with the United States Marshals Service as of the entry of this Order and up through November 7, 2022 (and beyond) about scheduling the actions contemplated by this Order and the related Writ of Assistance [SHL].

Dated: White Plains, New York
October 27, 2022

/s/ Sean H. Lane
United States Bankruptcy Judge

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SOUTHERN DISTRICT OF NEW YORK

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GREEN, DANIEL GREEN, ABRAHAM ZAKS and STERLING :
NATIONAL BANK,
Defendants. :
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WRIT OF ASSISTANCE

TO: THE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF NEW YORK

YOU ARE HEREBY ORDERED AND AUTHORIZED, pursuant to the order of the United States Bankruptcy Court for the Southern District of New York, to assist Congregation Radin Development Inc. (“CRDI”) in evicting and removing all occupants of units numbered 1, 2, 3-101, 4-201 and 24 located at Kiryas Radin Drive, Spring Valley, New York (the “Properties”), including, without limitation, Mayer Zaks, Sima Weintraub Zaks, Shimon Zaks, Nochum Z. Brody, Yisroel Hochman, Faige Hochman, and all of their family members (collectively, the “Residents”), and to deliver exclusive possession of the Properties to CRDI or its designated representatives and agents.

YOU ARE HEREBY FURTHER ORDERED AND AUTHORIZED, pursuant to the order of the United States Bankruptcy Court for the Southern District of New York, to take possession of, and remove, any personal property located on the Properties and make the same available to the person or persons occupying the unit of the Properties from which the same was removed. Any person who does not arrange for the delivery of any such personal property from the U.S. Marshals Service to him or her within seven days from the date of seizure of the same shall be deemed to have abandoned his or her interest in the same and the U.S. Marshals Service may dispose of the same in accordance with law.

YOU ARE HEREBY FURTHER ORDERED AND AUTHORIZED, pursuant to the order of the United States Bankruptcy Court for the Southern District of New York, to take all necessary steps, using whatever force necessary, to take possession of the Properties, including breaking open and entering the Properties and evicting all persons and entities located within the Properties who claim any possessory rights through the Residents or otherwise.

YOU ARE HEREBY FURTHER ORDERED AND AUTHORIZED, pursuant to the order of the United States Bankruptcy Court for the Southern District of New York, to arrest anyone interfering with (i) the execution of this Writ, or (ii) your taking possession of the Properties, or (iii) your removal of any occupants from the Properties.

IT IS FURTHER ORDERED AND DIRECTED, pursuant to the order of the United States Bankruptcy Court for the Southern District of New York, that the U.S. Marshals' Service and its employees shall be held harmless from any and all claims, asserted in any court or tribunal,

arising from any acts, incidents or occurrences in connection with the seizure and possession of the Properties, including any third-party claims, in accordance with this Writ.

Dated: White Plains, N.Y.
September ____, 2022

CLERK, U.S. BANKRUPTCY COURT

By: _____